



## **PAST AND CURRENT EFFORTS TO ENSURE QUALITY WITHIN THE CIVIL LEGAL ASSISTANCE COMMUNITY**

**BY**

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This background memo provides an overview of what LSC and others have done in the past and are currently doing now to address the quality and effectiveness of civil legal aid programs.

### **OEO AND LSC EFFORTS TO ENSURE QUALITY**

The legal services programs, originally funded in the late 1960s and early 1970s, were evaluated by independent contractors hired by the Office of Economic Opportunity (OEO). Evaluation teams consisted of people with legal assistance experience who evaluated performance using check lists and guidelines that evolved over time.

Although section 1007(d) of the LSC Act requires the Corporation to conduct evaluations, including independent evaluations, LSC has never implemented an effective or systematic approach to evaluating LSC funded programs for quality of services and effectiveness of program activities. Indeed, for long periods during its history, LSC conducted very few evaluations.

After the formation of the Legal Services Corporation in 1975, evaluation visits were conducted by LSC regional office staff, utilizing teams of peer reviewers who had experience in the delivery of legal services for the poor. However, there was never a single set of guidelines or agreed-upon standards to serve as a framework for these evaluations. These traditional evaluation approaches relied almost exclusively on the assessment of input, process, and output factors and relatively subjective appraisals of program quality.

The Corporation began to develop more objective measurement approaches in the course of the Delivery Systems Study (DSS) that began in 1976. Using an entirely new evaluation and measurement format, the DSS examined the performance of different models for providing legal services (staff attorney, pro bono, judicare, and contracts with

private attorneys), looking at four performance areas: quality, impact, client satisfaction and cost. In the ground-breaking areas of quality and impact, the DSS relied almost entirely on a peer review system, albeit a much more structured and elaborate peer review system than that employed as part of previous LSC and OEO evaluation processes. Once the DSS Report was issued in 1980, LSC did nothing to follow up on the results or to use the evaluation tools developed in the study to measure the performance of its other grantees.

Between 1981 and 1992, the Corporation did nothing to systematically evaluate recipients to determine whether they were providing economic and effective legal services of high quality. Instead, LSC conducted a campaign of intensive monitoring visits which focused primarily on compliance with LSC regulations and policies, although these monitoring visits frequently did include a review of the effectiveness of program fiscal systems and management.

At the beginning of the 1980s, while LSC was focused on monitoring for compliance, the legal services community began work on a long-term process to develop standards for providers of legal services to the poor. This process culminated in 1986 in the adoption by the American Bar Association's House of Delegates of a set of written standards, *Standards for Providers of Civil Legal Services to the Poor*. These were aspirational standards for legal services providers and focused on processes that should be in place in programs to assure quality. They were not intended as a framework for specific performance measurement or program evaluation. They included neither a measurement process nor specific prescriptions for assessing levels of performance. Even so, some programs and some state funders have adapted these *Standards* as part of their efforts to evaluate the performance of staff or individual offices and units within the program.

In addition, NLADA sponsored a set of meetings and trainings on high quality representation during the mid-1980s. Among other products produced was a paper by Gerry Singsen (attached) which set out proposed actions that the civil legal aid community should take.

In 1992, the Advisory Committee for LSC's Comparative Demonstration Project began to develop a performance assessment approach for use in evaluating the programs participating in the demonstration project. The Comparative Demonstration Project was set up to compare the performance of LSC grantees. The Advisory Committee developed a set of **Performance Criteria** that are now used to evaluate grant applications to LSC. These criteria were originally developed to provide a framework for peer reviewers to use in their inquiries. There were four major performance areas: (1) effectiveness in identifying and targeting resources on the most pressing needs of the low-income community; (2) effectiveness in engaging and serving the client community; (3) effectiveness of legal representation and other activities intended to benefit the low-income population in its service area; and (4) effectiveness of administration and governance. Each performance area set forth criteria to be considered in assessing the program's performance in that area. Indicators and possible areas of inquiry were also

included for each criterion to further guide the peer reviews in assessing program effectiveness.

These Performance Criteria were used in the first round of evaluations that were part of the Comparative Demonstration Project. LSC, with the assistance of consultant John Tull, designed a Peer Review Site Manual and conducted the first round of reviews of voluntary participants in the Comparative Demonstration Project in 1993. A peer review team consisting of individuals who had extensive experience in providing legal assistance and in working with persons in poverty, evaluated programs which volunteered for the demonstration project according to the performance criteria.

In 1994, after John Tull became Director of the LSC Office of Program Evaluation, Analysis and Review, LSC developed a peer review process which was built upon the Performance Criteria. However, during the summer and fall of 1994, key members of the State, Justice, Commerce Appropriations Subcommittee in the House of Representatives signaled their strong view that the focus of LSC oversight should be on compliance with the LSC Act and regulations and not on quality and effectiveness, the issues that the peer review process was designed to address. As a result, the peer review process that LSC had developed was abandoned and efforts to measure quality and effectiveness fall largely by the wayside.

Since the imposition of the competition requirements in 1996, LSC has implemented a much more rigorous set of criteria to review grant applications and to help determine which of two or more competing grantees should be awarded the grant for a particular service area. These criteria are based on the *ABA Standards for Providers of Civil Legal Services to the Poor* and the LSC Performance Criteria. LSC staff members have also evaluated some grantees using the LSC Performance Criteria. Generally, these evaluation visits have been conducted when more than one program is competing for a grant or after a service area is reconfigured and a new grantee is serving the area. LSC is now doing a few more visits based on perceived issues in programs.

In 2003, LSC developed a ***State Justice Communities Planning Initiative Evaluation Instrument*** which was recently tested in three states. This instrument is designed to evaluate the overall state level planning process, rather than particular legal services programs, using a team of LSC staff and non-LSC peers. LSC plans to visit states on a systematic basis over the next several years.

LSC also developed ***Characteristics of a Telephone Intake, Advice and Referral System***, which LSC is using when conducting on-site visits and evaluating grant applications.

Finally, it is relevant to point out that LSC collects information on cases and matters that it grantees undertake. The LSC Case Reporting System (CSR) was first instituted in 1980 and was designed to collect data on cases closed by LSC recipients. The system remained virtually unchanged until 1993, when LSC issued a revised CSR Handbook that made some slight revisions to the system. Until 1998, LSC made no systematic

effort to verify the accuracy of the CSR data that programs had submitted. Beginning in 1998, in response to complaints about alleged over-reporting of cases, LSC instituted efforts to ensure that CSR numbers were accurate and to eliminate from CSR reports any cases that were not fully documented. In 2001, LSC developed and implemented a Matters Reporting System (MSR) to obtain information about non-case services such as community legal education, pro se assistance, outreach, mediation and ADR and other non-case activities not captured by the CSR.

## **DELIVERY RESEARCH AT LSC**

Between 1976 and 1981, LSC conducted an extensive program of research on the delivery of civil legal assistance. Two of the major products from this research were mandated by Congress: The Delivery System Study and the 1007(h) Study of groups with difficulties of access and special legal problems. The Delivery System Study was described above.

The LSC Research Institute<sup>1</sup> undertook a study of the special groups mandated by Section 1007 (h) of the Legal Services Corporation Act Amendments of 1977. This study – the **1007 (h) Study** – examined the special problems of access to legal services and the unique legal problems of veterans, migrant and seasonal farmworkers, Native Americans, people with limited English-speaking abilities, individuals in sparsely populated areas, the elderly, the handicapped, and the institutionalized. The study undertook detailed surveys of all LSC and non-LSC legal services providers as well as other non-legal providers (e.g., Veterans organizations, urban Indian centers, area aging agencies, and the like). The study analyzed LSC funding policies in relation to access and LSC support policies in relation to special legal problems. The study was the only detailed examination of these special groups and their legal problems which has been conducted in the U.S.

The Research Institute also undertook the **Quality Improvement Project (QIP)**, a three-year project to expand the quality and availability of legal services to the poor. QIP funded 32 demonstration grants to bring together the diverse talents of legal services programs, low-income community organizations, client councils, bar associations, and private law firms to explore ways to provide higher quality and more efficient legal services. This study, at a cost of over \$4 million, produced detailed reports on computer assisted legal research, delivery of services in rural areas, use of law firm pro bono resources, client involvement, and private bar involvement. The QIP study also included loan repayment experiment which was designed to encourage retention of experienced staff by financial incentives to remain within the program.

In addition to these major studies, the Research Institute undertook a number of smaller policy and empirical delivery research studies.

These included:

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<sup>1</sup> The Research Institute was directed by Alan Houseman. Alan left LSC in 1981 to become the Executive Director of the Center for Law & Social Policy.

1. The Cost Variation Study, which collected and analyzed data on legal salary and overhead costs in private firms and public agencies, making comparisons by location, size and among geographic regions.
2. The Support Study, an extensive analysis of the full range of support efforts of the Corporation including national support, state support, training, and technical assistance.
3. The Next Steps Study, which began as an initial policy analysis of future efforts needed to improve delivery. Unfortunately, the “study” ended as a process of discussion ultimately resulting in national recommendations.
4. A Study on Retrenchment, which provided detailed information to legal services programs on how to respond to reduction in funds in FY 1981 and 1982 and alternative funding sources.
5. A Rural Delivery Study, which amplified the efforts of QIP but focused on the relationship of substantive rural legal issues and delivery.

Finally, the Research Institute examined a number of new areas of poverty law and developed appropriate legal strategies and delivery efforts to address the identified problems. These included studies on the mentally retarded, access to courts, alternative dispute mechanisms, long-term health care for the elderly and institutionalized, public and private job programs, state and local tax systems, domestic violence, workfare, foster care, urban education, housing displacement, health care, electronic banking, rural legal services issues, Indian health and child welfare, and a range of public benefit issues.

## **DEVELOPMENTS OUTSIDE OF LSC**

Outside of LSC, efforts have been made to develop four somewhat separate tracks for examining legal services quality and effectiveness: (1) peer review process evaluations conducted by IOLTA programs in a number of states; (2) outcome measurement systems developed and implemented by five IOLTA programs; (3) national evaluations of new delivery methods; and (4) program-owned evaluations that are designed to help individual programs perform better and to better market what they accomplish.

It is important to recognize that LSC is not the only large funder of civil legal assistance, nor are LSC grantees the exclusive providers of civil legal aid in the US. Indeed, in this country, the overall legal aid system is really comprised of three separate and somewhat different systems. One is the network of providers funded by LSC (although most also receive non-LSC funds as well); the second is a system of state and local legal services providers that are completely funded by non-LSC sources, including IOLTA, government and private funders, and are integrated to some extent with LSC funded providers; and the third is a group of wholly independent entities, completely funded by non-LSC

sources, that are not generally integrated with LSC funded providers and are independent of, and in some cases isolated from, both LSC providers and each other.

## 1. IOLTA Evaluations

The network of state Interest on Lawyers Trust Account programs (IOLTA) is the second largest funder of civil legal assistance providers, including both LSC and non-LSC funded programs among their recipients. A number of IOLTA funders across the country undertake peer review evaluations of their grantees. Peer review evaluations are done by IOLTA programs in at least seven states. Michigan, Ohio and Florida bring in out-of-state poverty law experts and managers to evaluate individual programs using on-site reviews. These reviewers use a set of criteria developed in collaboration with the grantees and based, in part, on the **LSC Performance Criteria**. Massachusetts, New Jersey, Texas and Minnesota use one lead reviewer who visits all of the programs in the state, along with team of reviewers for each individual program. These states also use a set of criteria for evaluation. Virginia does a desk audit using a set of evaluation criteria.

## 2. IOLTA Outcome Measurement Systems

Five state IOLTA/state funding programs require their grantees to report on outcome measures based on a system originally designed for use in New York. New York, Maryland, Virginia, Texas and Arizona measure specific outcomes that could be achieved for clients which are framed around specific substantive areas, such as housing, and which focus primarily on the immediate result of a particular case or activity (such as “prevented an eviction”). These systems do not capture information on what ultimately happened to the client. All of these states use the information collected to report to their state legislatures and the public about what the grantees have accomplished with IOLTA and state funding.

For example, the 2002 Report from Virginia includes the number of people who obtained a divorce or annulment, obtained or maintained custody of their kids, obtained federal bankruptcy protection, or obtained a living will or health proxy. It also reported on dollar benefits awarded as a result of the legal assistance, including Social Security/SSI benefits, other Federal benefits, unemployment compensation, child support, etc. The report also estimated the benefits generated by the investment of state funds.<sup>2</sup> Finally, the report estimates the economic impact on communities from the legal aid efforts, including the amount of federal benefits brought into the state.<sup>3</sup> The other 4 states using this approach have a similar format for reporting.

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<sup>2</sup> The report included the following statement: “In FY 2001-2002, [Virginia legal aid advocates] won an estimated \$23.4 million in direct benefits for their clients, including child support payments, Social Security Disability benefits and workman’s compensation insurance payments. These benefits translate to \$12,600 for every \$10,000 of total funding received by the programs.”

<sup>3</sup> The report included the following statement: “Federally-supported benefits and grants brought into local communities by LSCV-funded programs provide income and jobs for working people. By applying a standard economic activity multiplier of 1.64 (obtained from U.S. Department of Commerce ‘Regional

### **3. Evaluations of New Delivery Techniques**

There has been one national evaluation of new delivery techniques, a study of hotlines that has just been completed by the Project for the Future of Equal Justice (the Project), a joint project of the Center for Law & Social Policy (CLASP) and the National Legal Aid and Defender Association (NLADA). The Project undertook the study of the effectiveness of centralized telephone legal advice, brief service, and referral systems in the delivery of civil legal assistance. The study used existing data to compare “before” and “after” caseload statistics in programs that had adopted a hotline system and to determine the effect of the hotline system on the number of clients served and the levels of brief and extended services. It also conducted a full-scale survey of hotline clients to answer a variety of questions about the different legal outcomes and the characteristics of clients who experience successful and unsuccessful results. (Attached is a summary of the study and comments about it by the two key Project staff involved in the study.)

What is most instructive about the hotlines study, and what made it so useful, was that it was designed to address carefully identified evaluation questions, and the outcome measurements were tailored to the specific needs of the evaluation. Thus, it was possible to conduct a well thought out national outcome evaluation that was tailored to answer important national questions about what is working in the delivery system. However, a generic, across-the-board outcomes data collection scheme is not likely to be structured to serve such specific purposes.

### **4. Program-Owned Evaluations**

Finally, a number of programs across the country are utilizing what is now called “program-owned evaluation” to ensure high quality and effective representation. There have been a number of developments in the expansion of program-owned evaluation in the past few years. First, on their own, some programs have developed rigorous internal evaluation systems, including the use of outcome measurements, to evaluate whether they are accomplishing what they set out to do for their clients. Among those that have engaged in such efforts are the Legal Aid Society of Greater Cincinnati, Neighborhood Legal Services in Lynn and Lawrence, Massachusetts, Legal Counsel for the Elderly in Washington, DC and the Hale and Dorr Clinic at Harvard. Many other programs have begun to use the techniques developed elsewhere as a part of their own program-owned evaluation. (Attached is an article about these program-owned evaluations).

What characterizes all of these diverse efforts is that they are keyed to answering the same overall question for each program, i.e., whether its efforts have succeeded in accomplishing for clients what it intended. They are explicitly outcome-based, and the outcomes are carefully and strategically chosen by each program to guide its work. The programs have used a variety of creative techniques to conduct their outcome

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Economic Multiplier’ studies), we can produce a reliable estimate of \$25.8 million in new economic activity and 647 jobs resulting from these benefits and grants.”

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evaluations, including focus groups, client follow-up interviews, interviews of court and social service agency personnel, courtroom observation and court case file review.

Two developments have encouraged the expansion of program-owned evaluation, including the rigorous use of outcome measures. In California, the Legal Services Trust Fund, which is State IOLTA funder, and the Administrative Office of the Courts (AOC) have teamed up to support the development of a “tool kit” of program self evaluation tools for use by programs as a part of the statewide system of evaluation. The use of the specific tools is optional for programs. The tools include end-of-service surveys, client follow-up interviews, focus groups, courtroom observations, review of documents filed in court, interviews of court and agency personnel, and outcome measures. The state level agencies decided that the use of the tools should be optional as a way to encourage programs to make use of those that they would find useful for their own management purposes. Hence, the name “program-owned evaluation.” The reports from the program-owned evaluations will be provided to the state agencies to help them fulfill their obligations to report to the State Legislature, but the Trust Fund and the AOC both see the primary beneficiaries of the tool kit to be the programs that embrace its use.

A similar development in the past year has been the Management Information Exchange's (MIE) Technology Evaluation Project (TEP). TEP was funded by the Legal Services Corporation through a Technology Initiative Grants (TIG) grant made jointly to the Legal Aid Society of Greater Cincinnati and MIE to develop tools for the evaluation of technology initiatives. The resulting product is a set of tools—also referred to as a “tool kit”—that is available for programs to use to evaluate their websites and their use of video conferencing and legal work stations that serve clients through “virtual law offices.” The range of tools includes those mentioned previously with the addition of a number of surveys and a set of checklists to test website navigability, quality control and outreach.

Each of these developments is tied by a common thread. They are part of a growing movement by programs to embrace evaluation as a key component of effective management. Programs are undertaking evaluations to meet their needs for improving their own performance and to tell their story better to funders and to the public. These outcome evaluations have grown up spontaneously in the legal services community in response to recognized management need: managers have an interest in knowing if the work of their programs is having the desired outcomes and producing real benefits for the client community.